



House of Representatives

General Assembly

File No. 643

January Session, 2007

Substitute House Bill No. 6989

House of Representatives, April 30, 2007

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING NONCOMPETE AGREEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2007*) (a) No employer may
2 require any person employed in the classification 339032 of the
3 standard occupational classification system of the Bureau of Labor
4 Statistics of the United States Department of Labor to enter into an
5 agreement prohibiting such person from engaging in the same or a
6 similar job, at the same location at which the employer employs such
7 person, for another employer or as a self-employed person, unless the
8 employer proves that such person has obtained trade secrets, as
9 defined in subsection (d) of section 35-51 of the general statutes, of the
10 employer.

11 (b) (1) Any person who is aggrieved by a violation of this section
12 may bring a civil action in the superior court to recover damages and
13 for such injunctive and equitable relief as the court deems appropriate.

14 (2) The Labor Commissioner may request the Attorney General to

15 bring an action in the Superior Court for the judicial district of
 16 Hartford for restitution for any violation of this section and for such
 17 injunctive or equitable relief as the court deems appropriate.

18 (c) The provisions of this section shall apply to agreements in effect
 19 on or entered into on or after October 1, 2007.

20 Sec. 2. (NEW) (*Effective October 1, 2007*) (a) As used in this section:

21 (1) "Broadcast industry employer" means television stations and
 22 networks, radio stations and networks and cable stations and
 23 networks, including any associated broadcast entity; and

24 (2) "Broadcast employee" means any employee of a broadcasting
 25 industry employer, excluding sales and management employees.

26 (b) No broadcasting industry employer shall require in any
 27 employment contract that a broadcast employee or prospective
 28 broadcast employee:

29 (1) Refrain from obtaining employment in a specified geographical
 30 area for a specified period of time after termination of employment
 31 with that broadcasting industry employer; or

32 (2) Disclose the terms of an offer of employment from any other
 33 broadcasting industry employer following the expiration of the term of
 34 the employment contract.

35 (c) Any person who is aggrieved by a violation of this section may
 36 bring a civil action in the Superior Court to recover damages, together
 37 with court costs and reasonable attorney's fees.

38 (d) The provisions of this section shall apply to employment
 39 contracts in effect on or entered into on or after October 1, 2007.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	New section

Section 1	October 1, 2007	New section
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Sec. 2	<i>October 1, 2007</i>	New section
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LAB *Joint Favorable Subst. C/R* JUD

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill provides for a private (civil) cause of action under certain circumstances. Any caseload increase under the bill could be accommodated by the Judicial Department without requiring additional resources.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6989*****AN ACT CONCERNING NONCOMPETE AGREEMENTS.*****SUMMARY:**

This bill prohibits employers from requiring non-competition agreements in employment agreements with broadcast employees and, under certain circumstances, security guards. A non-competition agreement is an agreement between an employer and an employee that bars the employee from working in a particular occupation, business, or geographic area for a certain time after ending employment with the employer. Courts have upheld non-competition agreements if their restrictions are reasonable.

The bill prohibits a broadcasting industry employer from requiring non-competition agreements that require a broadcast employee or prospective one to:

1. refrain from working in a specified geographic area for a specified period of time after ending employment or
2. disclose the terms of an employment offer from another broadcasting industry employer after the contract ends.

The bill allows someone to sue in Superior Court for damages, court costs, and reasonable attorney's fees for a violation.

The bill also prohibits an employer from requiring an employee who is a security guard to agree to a non-competition agreement if (1) it prohibits the employee from having the same or a similar job at the same location and (2) the job is for another employer or as a self-employed person. This prohibition does not apply if the employee has obtained the employer's trade secrets.

The bill allows someone to sue under this provision in Superior Court for damages, an injunction, and equitable relief, as the court deems appropriate, for violations. It also allows the labor commissioner to ask the attorney general to sue in the Hartford Superior Court for restitution, injunctions, and equitable relief, as the court deems appropriate.

EFFECTIVE DATE: October 1, 2007 and applicable to agreements in effect on that date and entered into on and after that date.

DEFINITIONS

The bill defines a “broadcast industry employer” as a television, radio, or cable station or network, including any associated broadcast entity. A “broadcast employee” is an employee of a broadcast industry employer, except sales and management employees.

BACKGROUND

Security Guards

The bill refers to Bureau of Labor Statistics standard occupational class 33-9032. This is the security guards classification, which it describes as someone who “guards, patrols, or monitors premises to prevent theft, violence, or infractions of rules.”

Case Law on Non-Competition Agreements

Courts uphold non-competition agreements if they are reasonable in terms of:

1. length of time,
2. geographic area covered,
3. fairness of protection given the employer,
4. extent of restraint on the employee’s opportunity to pursue his or her occupation, and
5. extent of interference with the public’s interests (*Robert S. Weiss & Associates, Inc. v. Wiederlight*, 208 Conn. 525 (1988)).

Trade Secrets

The law defines a trade secret as information, such as a formula, device, process, or customer list, that (1) has economic value because it is not generally known and not readily ascertainable by others who could benefit from it and (2) is the subject of reasonable efforts to keep it secret (CGS § 35-51(d)).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 10 Nay 0 (03/13/2007)

Judiciary Committee

Joint Favorable Substitute

Yea 27 Nay 12 (04/12/2007)